

MINUTES OF PUBLIC HEARINGS AND REGULAR MEETING

August 28, 2018

MONTGOMERY CITY COUNCIL

CALL TO ORDER

Mayor Sara Countryman declared a quorum was present, and called the meeting to order at 6:00 p.m.

Present: Sara Countryman Mayor
John Champagne, Jr. City Council Place # 2
T.J. Wilkerson City Council Place # 3
Rebecca Huss City Council Place # 4
Dave McCorquodale City Council Place # 5

Absent: Jon Bickford City Council Place # 1

Also Present: Jack Yates City Administrator
Larry Foerster City Attorney
Susan Hensley City Secretary
Chris Roznovsky City Engineer

INVOCATION

John Champagne gave the Invocation.

PLEDGE OF ALLEGIANCE TO FLAGS

1. Consideration and possible action regarding receiving the Final Report from the Planning and Zoning Commission, related to their second Public Hearing held on February 27, 2018 regarding a request to rezone a portion of the property located at the southeast corner of Buffalo Springs Drive and SH 105, a portion of the Montgomery Shoppes Tract, from R-1 (Single-Family), R-2 (Multi-Family), and I (Institutional) to B (Commercial) and I (Institutional).

Mr. Yates advised last night the Planning and Zoning Commission met and unanimously passed the Final Report recommending the zoning amendment, which is part of the 380 Agreement with the City. Mr. Yates said the Commission said the use of the property was in the best interest of the

Community. Mr. Yates said that B-Commercial was the property owned by The Shoppes and the I-Institutional is the City's sewer plant that is all located on one plat.

Rebecca Huss moved to accept the Final Report by the Planning and Zoning Commission on the rezoning of The Shoppes property located at the southeast corner of Buffalo Springs Drive and SH 105, from R-1 (Single-Family), R-2 (Multi-Family), and I (Institutional) to B (Commercial) and I (Institutional) as presented on the Exhibits. Dave McCorquodale seconded the motion.

Discussion: Rebecca Huss stated to clarify, all they are doing with this motion is accepting the Final Report. Mr. Yates said that was correct.

The motion carried unanimously. (4-0)

PUBLIC HEARING:

Convene into Public Hearing for the purpose of giving all interested persons the right to appear and be heard regarding the following:

2. **Public Hearing** – regarding a request to rezone a portion of the property located at the southeast corner of Buffalo Springs Drive and SH 105, a portion of the Montgomery Shoppes Tract, from R-1 (Single-Family), R-2 (Multi-Family), and I (Institutional) to B (Commercial) and I (Institutional)

Mayor Countryman convened into the Public Hearing at 6:06 p.m.

Mr. Yates said this is the Public Hearing for the actual rezoning of the property for public comments. There were no comments made by the public.

Adjourn Public Hearing.

Mayor Countryman adjourned the Public Hearing at 6:07 p.m.

Convene into Regular Meeting.

Mayor Countryman convened into the Regular Meeting at 6:07 p.m.

VISITOR/CITIZENS FORUM:

Any citizen with business not scheduled on the agenda may speak to the City Council. Prior to speaking, each speaker must be recognized by the Mayor. Council may not discuss or take any action on an item, but may place the issue on a future agenda. The number of speakers along with the time allowed per speaker may be limited.

- Mr. Scott Howard who resides on Worsham Street advised that he was here to discuss a specific dog boarding business at 607 Worsham Street and to make known his formal complaint about the business. Mr. Howard said one of the biggest concerns is the unsanitary stay of the property and the effect that it will have on the health and safety of the families, including pets in the area. Mr. Howard referred to the City of Montgomery Code of Ordinances, Chapter 34, Section 34-19 regarding the authority of the City Council to address unsanitary conditions and health hazards.

Mr. Howard said at first the primary problem was noise generated by 14 or more large dogs housed on the property. Mr. Howard said that Police were called on several occasions, including a call from our City Administrator. Mr. Howard said that business owner did manage to reduce the barking somewhat, however, as the business took on more clients, the stench created by such a large number of canines became an even greater nuisance. Mr. Howard said each day they are assaulted with the nauseating smells generated by this business as well as the irritating noise of the barking dogs, dog training whistles and on one occasion a starter pistol. Mr. Howard said they use a power washer every day to wash dog feces and urine out of the garage.

Mr. Howard said the second concern regarding this matter, which is no less important, is the impact this disgusting business has on the value of his property and the surrounding homes. Mr. Howard said he takes pride in his neighborhood and in homeownership in this town. Mr. Howard said he makes every effort to treat his neighbors in a respectful manner. Mr. Howard advised he and his wife own two businesses, which they conduct out of commercial property, they do not sell product out of their home that would necessitate customers parking out in the street, in their neighbors driveways or where ever. Mr. Howard said this is not only due to respect of their neighbors, it is commons sense. Mr. Howard said since the owner of this dog boarding business seemingly has no ties with this community, nor does he actually own the property, he has no apparent interest in developing and maintaining good relationships with his neighbors and could care less of for the health and safety of his community. Mr. Howard said he has been told by members of this City Council that running a business from your home in a noncommercial area is legal as long as you do not put a sign advertising your business in the yard. Mr. Howard asked what would stop the next person from turning his driveway into a toxic waste, hog farm or slaughter house. Mr. Howard said Police have done what they can in this matter, and in their own works it is not a criminal act, as such he is here tonight to obtain guidance and assistance from City Council as the elected officials. Mr. Howard asked what the point if zoning is if an individual can do whatever he or she wants. Mr. Howard said why go through all the red tape to rezone to commercial, when all you have to do is start a business up and ask for forgiveness later. Mr. Howard said Montgomery is

growing by leaps and bounds and it is certainly not country any more, and it is barely small town. Mr. Howard said he came to Montgomery because he liked the small town atmosphere and the distinct sense of community. Mr. Howard said they need ordinances to keep up with the growth if they are to maintain the existing harmony. Mr. Howard said they all want the town to grow and bring in jobs and capital into the community, but please do not let the ideal of the small town neighborhood fall by the wayside by permitting the anything goes attitude, because it is a slippery slope toward just that scenario.

Mr. Howard said as to what needs to be addressed, the City needs an ordinance outlining the number of animals that can be kept safely and the sanitary conditions within the City limits on residential size lots. Mr. Howard said they need an ordinance where at least a permitting process outlines the use of residential property for commercial ventures. Mr. Howard said if someone had asked him if he wanted a dog boarding business next door he would have most certainly rejected it. Mr. Howard said they need enforcement of these ordinances, proper investigation of the abuse of these ordinances when a complaint is made. Mr. Howard said they need officials that do not look the other way or write it off as country living when it is happening in their own yard. Mr. Howard thanked City Council for their time and he looks forward to some response maybe on the next meeting toward some ideal resolutions and ordinances.

Mayor Countryman said perhaps they could look at the dog ordinance when they have their workshop.

CONSENT AGENDA:

3. Matters related to the approval of minutes of the Special Meeting held on August 21, 2018.
4. Consideration and possible action regarding adoption of an Escrow Agreement by and between the City of Montgomery and Haza Foods regarding the Wendy's Development.

Rebecca Huss asked about the Escrow Agreement, given some of the other Escrow Agreements the City has entered into, \$5,000 seems like a really small amount for the Agreement. Mr. Roznovsky advised the reason that the amount of money for this Agreement is so small is because it is already an existing platted developed site, so the initial overall master plan for it is complete, this is just building out the actual space. Mr. Roznovsky said this is like the Burger King or Car Wash versus the entire Kroger site.

John Champagne moved to accept and approve the Consent Agenda Items 3 and 4 as presented. Dave McCorquodale seconded the motion, the motion carried unanimously. (4-0)

CONSIDERATION AND POSSIBLE ACTION:

5. Consideration and possible action on Department Reports.

- A. Administrator's Report – Mr. Yates presented his report to City Council. Mr. Yates advised he had attended the required Public Funds Investment School in Austin. Mr. Yates also attended the SnoBalls in Cedar Brake Park with Mayor Countryman. Mr. Yates advised that there were two TORC Committee Meetings during the past month, and coordinated a developers meeting in late September for review of the development processes in the City. John Champagne asked about the positions that are being advertised and asked if there have been any interviews as of yet. Mr. Yates said there have been three interviews for the Assistant to the City Administrator, and for the Tourism person they are starting to get resumes.

John Champagne asked where they are in terms of percentage between zero and 100% of getting a person in place. Mr. Yates said they were about 75% to 80%, and said he has two choice, both of which are good choices. John Champagne asked how Mr. Yates was going to make that choice. Mr. Yates said one person is someone that can do engineering work as well as the administrative duties, and the other person is more an Assistant to the City Administrator. Mr. Yates said that perhaps they could have one person doing both jobs. John Champagne asked who would be making that decision. Mr. Yates said he would make that decision with the City Secretary. Rebecca Huss said that she would caution that they used to have someone that did two jobs, and she would rather have one person to do one job really well at a time. Mr. Yates said he thought that they could afford both positions. John Champagne asked if the person with the engineering background had a degree in engineering. Mr. Yates said yes and the person has a State Seal.

- B. Public Works Report – Mr. Muckleroy, Director of Public Works presented his report to City Council. Mr. Muckleroy said they repaired a sewer sink hole on Martin Luther King Drive. Rebecca Huss asked about the size of the sink hole. Mr. Muckleroy said it was three feet in diameter and formed really quickly, and was an old sewer tap that was not utilized with duct tape at the end of it, so they capped it. Rebecca Huss asked if it was a source of infiltration. Mr. Muckleroy said it might have been a little, but not much. Mr. Muckleroy said they stripped the parking lot and installed parking curbs and mulch and

plants in the new parking lot by Jacobs's properties. Mr. Muckleroy said they completed the projector screen project in the Council Chambers. Mr. Muckleroy said they pressure washed the cooling tower at Well #4 as part of the Plant Maintenance Program. Mr. Muckleroy said they had two water leaks, one sewer stoppage, 18 water taps and 15 sewer taps for the month. Mr. Muckleroy said on the park side they repaired the lights inside the Crane Cabin at Fernland, repaired the leaking waterline to the drinking fountain at the Community Center and installed a bicycle rack at Cedar Brake Park. Mr. Muckleroy said the docents at Fernland reported a total of 477 visitors and provided 43 tours for the month.

Rebecca Huss said she noticed that Mr. Muckleroy reported the street lights out to Entergy and asked how many were out. Mr. Muckleroy said there were three lights out. Mr. Muckleroy said they did the survey a couple of months ago and reported 43 lights out. Rebecca Huss asked if Entergy fixed all the lights expeditiously. Mr. Muckleroy said over a months' time they fixed them. Mr. Muckleroy advised there was a new lighting coordinator at Entergy that has really been on the ball and he had the street light installed on Old Plantersville Road last month and the one on Bessie Price Owen in the curve at Berkley, and has been really nice to deal with and follows through. Rebecca Huss asked if the City was getting better service. Mr. Muckleroy said absolutely.

John Champagne said the fountains seems to be growing some unidentified fungus or mold at Cedar Brake Park and is green. John Champagne said on College Street on the new home build near the stream, where the bridge crosses over College Street in the back, they seem to have dropped some stones and damaged the road so it might need checked. John Champagne said he noticed the water tap, and asked if the inspector is looking at how that is going to drain in the front in terms of a ditch, which there appears to be a ditch that runs along there. John Champagne said the meter looks like it might be right in the middle of the ditch. Mr. Muckleroy said if it is then they will move the tap. Mr. Muckleroy said at the time the tap was done the culvert was not put in, so the position of the ditch is not set in stone. John Champagne said the culvert is still not in. John Champagne said it can't go too many places. Mr. Muckleroy said they can move the tap in 30 minutes if it does in fact end up in the ditch. Mr. Muckleroy said that mold in the fountain at Cedar Brake Park is something that they put HGH in every couple of weeks to try and keep it under control.

- C. Police Department Report – Chief of Police James Napolitano presented his report to City Council. The Chief said that he has added this month a quarterly snapshot with graphs to

make it easier to understand. The Chief reviewed additional charts with City Council advising the May investigations showed the time the officers are taking to investigate the arrests that they made previously. Chief Napolitano said Officer Bracht helped put all this together and they have discussed how they would put a shadow graph to show officers time involved on the calls for the next monthly report. Chief Napolitano review the months of May, June and July. Chief Napolitano said in June possession of controlled substances was very high as was in May, and driving while intoxicated was pretty high because they are getting intoxicated and then getting in their vehicle and driving. Chief Napolitano said they had an increase in criminal trespass warnings, which means people have gone to shops or other places and caused a disturbance where the owner has asked the police to give them a criminal trespass warning, which tells them if they come back on the property within the next year they will be arrested on the spot and there is no more need to warn them they are trespassing. Chief Napolitano said July was high up on possession charges and arrests they are making on the street. Chief Napolitano said the department is arresting a lot of people that are bringing illegal drugs into the City, with most of it being a pass through and are people that do not live in the City. Chief Napolitano thanked Rebecca Huss for giving the Police Department the idea of trying to get the data put in some kind of format where it is easier to see. John Champagne said he thought it was good for the public to see this information. Chief Napolitano said it gives the public an idea of what they are out there doing and what they are looking for.

Chief Napolitano said school started this month, and said MISD has gone back and looked at how they were running their busses. Chief Napolitano said if the student is going to Lincoln Elementary the busses are leaving Lincoln Elementary from the bus barn and only going to pick up Lincoln Elementary students and taking them to school. Chief Napolitano said in the past they were picking up students going to different schools along the bus route and then dropping them off at the different schools and then the children that go in later at the end of the bus, which put the buses going through the City over and over again and that takes up a lot of space. Chief Napolitano said the children that need bus rides from some of the outer subdivisions are now not even coming into the City. Chief Napolitano said when you put a bus at the light it is taking up the space of about four or five cars, so now they are getting five or six additional cars and the traffic is getting through faster. Chief Napolitano said they worked traffic on the first day of school and they did not see hardly the amount of traffic that they had seen in the past. Chief Napolitano said they would continue to monitor the traffic and see how it runs.

Chief Napolitano said early in the month of July they had Homeland Security of Montgomery County call a meeting regarding mass casualty events and protection of the school children, so they were briefed by the Texas Rangers on the Sante Fe issue last year and how they want to work at trying to prevent that here at our schools. Chief Napolitano said following that meeting they met with MISD, all the Police Department and met with MISD with the Sheriff's Department, Precinct 1 and 2 Constables, EMS and they did walk through tours at all the schools to begin to look at planning. Chief Napolitano said what he tried to explain to the other agencies was that the planning should be about prevention and not after an event, but they also need both done, but the prevention is the biggest thing to keep an event from happening. The Chief said students that are not acting correctly and if they are having problems should be brought up quicker and brought to the attention of the parents and the School Administrator. Chief Napolitano said the information from Huntsville that Mayor Countryman had shared with him, they are developing that information for their own schools and have it on their computers in the vehicle so they don't have to have something that will get lost it will be accessible from their computers showing the layouts and photos of each the schools. Mayor Countryman said that was excellent. Chief Napolitano said the Police Administrative Assistant has left the City so they are looking for someone to fill that position. John Champagne asked if the Chief was going to be pursuing that position. Chief Napolitano said yes he would.

John Champagne asked about the traffic stop dispositions, and said he wanted to make a note that sometimes the City of Montgomery in the past has been accused of being a traffic trap, and said we are not and said the graph shows the warnings which are normally higher than the citations. John Champagne said they had a burglary of motor vehicle at Kroger, and his big concern was when that showed up they would have more incidents. The Chief said as they get more people living in the City and more people coming to the City, more people will have the ability for some bad person to have access, so they try to ask people to please not leave things in their vehicle that are visible to others because they will smash the window and be gone. The Chief said burglary of motor vehicles occur all around the City in different places, and they are getting more and more like every other City.

Mayor Countryman said that she has talked to the Chief in the past, and making sure that the children at the schools are protected is a big priority and should be for MISD, which she believes that it is, as well as the City because we have to go and help them should there

be an incident. Mayor Countryman thanked the Chief for taking that booklet and getting that information put together like other cities are doing that as well. Mayor Countryman said the relationship with MISD did not seem like they wanted to work with the City, and asked if the Chief is seeing a difference or if maybe a change in tide. Chief Napolitano said he thought there was a change in tide, and he thinks the School Board has let them know they need to have assistance, not just from Montgomery, but from the Sheriff's Department and Constables, they are all here to respond to this issue if it ever happens. The Chief said as he spoke to Chief Runnels the other day, his preventing this from happening is as important as or more important than our response because we need to make sure that it stops before it comes to us.

Mayor Countryman asked if the prevention on the City of Montgomery as well as it is one MISD, because she would imagine we both partake in that equally. Chief Napolitano said no, and said he would use the example of what occurred last year when they got a call at 10 p.m. when a Conroe Police Detective's son was looking at a snap chat and there was a young man making threats against another young man's school. Chief Napolitano said they identified who that person was, but they did not have his address, so he called Chief Runnels, who said "let's worry about it in the morning." The Chief said that Chief Runnels has learned since then that is not the time to worry about it, because that student got on a bus with other children and made it to the campus where they then asked the student to come off the bus and they took him to the administration office. Chief Napolitano said that should have happened at the student's home that night away from the campus and not anywhere near the rest of the children. The Chief said that was what he was talking about that the preventions stage is as soon as they have the information they need to get it to the parents to let them know it is time to talk to the child and find out what is bothering them and resolve the issue before it becomes a violent act. Mayor Countryman said that was great.

- D. Court Department Report – In the absence of Mrs. Kimberly Duckett, Court Administrator, Mr. Yates presented the report to City Council. Mr. Yates said they had 236 citations in July bringing in \$39,946. Mr. Yates said the amount for the year is \$308,936.42 with 1,509 citations compared to 2,402 for the entire year of 2017.
- E. Utility/Development Report – Mr. Yates advised the City collected \$154,861.66 in utilities, which was a record month for the City. Mr. Yates said there were 56 building and

mechanical types of permits resulting in \$34,367.90. Mr. Yates said the Community Building was rented three times and brought in \$300. Mr. Yates said the City account consumption was very low except for Memory Park and asked Mr. Muckleroy to speak about what is happening at the Park. Mr. Muckleroy advised he had a meeting scheduled with the TORC Committee tomorrow at 2 p.m. to talk about the pump to pump water out of the pond to be used for watering. John Champagne asked what they were digging up on the west side of the pond. Mr. Muckleroy said that was a leak in the irrigation system. Mr. Yates said they will determine the final design of the pump and when they are going to do the installation. John Champagne asked if a correlation of what it is that increases the amount of water Memory Park uses from 127,000 gallons to 180,000 gallons, other than the heat. Mr. Muckleroy said it was the controller over there that essentially has a brain and computes the humidity, temperature and amount of daylight and tells the system how long it should water. John Champagne said maybe they could put some software so it could regulate expenses too while it is at it. John Champagne said it was just incredible 60,000 gallons. Rebecca Huss said the top month for water consumption for the City and residents are making the same decision as the system in Memory Park. Mr. Yates said the problem will be helped tremendously and the amount of the water usage will decrease with the irrigation of the pond. Mr. Muckleroy said they will pump out of the pond as much as possible until the level gets to a point where they feel it is dangerous for the fish.

- F. Water Report -- Mr. Michael Williams, with Gulf Utility Service, Inc., presented his report to City Council. Mr. Williams said they had one District Alert this month regarding Lift Station 2 which was most likely due to a power surge or flicker. Mr. Williams advised the following Effluent Trend was 3.417 million gallons, with the daily peak flow occurring on June 21, 2018 with 378,000 gallons at 95% permitted value. Rebecca Huss said the rain gauge does not match with the rain event. Mr. Williams said they were having issues with the rain gauge. Mr. Williams said the average daily flow was 113,900 gallons, at 28% permitted value. Mr. Williams said the City was in compliance for the effluent monitoring report for the month of July, with seven inches of rain. Mr. Williams said the City had a total amount of water sourced of 9.370 million gallons, flushing 186,000 gallons, with 98% accountability. Mr. Williams advised on the Jasper Well they still have 69.8% remaining, and the Catahoula has 44.94% remaining.

John Champagne asked Mr. Williams if he was blending the water at this time. Mr. Williams said yes they were. Mr. Williams said the City has 800 total connections. Mr.

Williams said this month the City had a 38% water return to the plant from water sold. Rebecca Huss said the return numbers, if you believe the figure from the winter, it really gets back to the whole they need to figure out what is going on. Mr. Williams said he agreed.

- G. Engineer's Report – Mr. Roznovsky presented his report to City Council. Mr. Roznovsky advised they received and approved Pay Estimate No. 6 in the amount of \$51,768.11 to Glen Fuqua, Inc. for the Buffalo Springs Bridge Repair (FEMA) Project. Mr. Roznovsky said they have sent a letter to MagnaFlow for the FM 149 Sanitary Sewer Cleaning and Televising and they have provided the videos, which have been reviewed, and said it was about 3,800 feet of credit video and they are finalizing the numbers and they should be able to close out that contact. Rebecca Huss asked when they would get the results. Mr. Roznovsky said they watched all the videos and they have given all the results for the lines on FM 149, it is just the results for the additional 3,800 feet of line that he expects will be done this week. Rebecca Huss asked if they will know what the results in terms of what they need to be doing for maintenance. Mr. Roznovsky said a couple of months ago they presented the recommendations for everything from College Street to FM 1097 on FM 149, and the next piece is in the fall because they did a bunch of manholes out in the system and summarizing that and then what is in the proposed budget they will work with Mr. Muckleroy to start making some of the repairs and then also to do some additional cleaning and televising to get a good bank of repairs saved up and do a big project. Rebecca Huss asked if it was worth all the money they have been spending on doing this project and are they finding things that will make it worth their while. Mr. Roznovsky said if you can identify a problem early and plan for it, versus if there was a failure in the middle of the night, it is being proactive and allowing a big savings because emergency repairs can be very costly. Mr. Roznovsky said the 18-inch sewer line has their preconstruction meeting the week before last, so that contractor should be getting started in the next few weeks.

Mr. Roznovsky said they are finalizing the plans for the Baja Road CDBG Project to be bid in the next week some time so they can have the bids by the end of September depending on the time lines. John Champagne asked if the project was running behind. Mr. Roznovsky said that project is running behind.

Mr. Roznovsky said the General Land Office projects funding for these projects will not be available until September 2018 at the earliest. Mr. Roznovsky said there were several requests for information from the State that have been completed.

Mr. Roznovsky said the Feasibility Study for Louisa Lane development that they presented at the last meeting, one item that will be coming up shortly is the variance requests and making sure that everyone is on board with the private street versus a public street.

Mr. Roznovsky said the one year warranty inspections, they had the Garner Drive inspection today and McCoy's is mostly complete with their punch list with one more thing that is now done, so that will be ready to close up.

Mr. Roznovsky said the Catahoula Well Permit Amendment was submitted to Lone Star Groundwater Conservation District today and based on their schedule it will go before them at their October 2018 Meeting for approval and go into effect immediately. Mr. Roznovsky said based on the amount permitted for the Jasper and Catahoula Wells and the City would have to use around 450,000 gallons per day on average for the rest of the year to use all the permitted level. Mr. Roznovsky said the highest month usage was 400,000 gallons during the month of July, so it should be tailoring off. Mr. Roznovsky said they worked with Mr. Yates and did a relatively small 15 million increase for this year to give a little bit of a buffer, and they will re-evaluate June to see where they stand. Mr. Roznovsky said it was a \$370 fee to submit the application versus paying ten and half cents per 1,000 gallons on the permit. Mr. Roznovsky said they went through the numbers and the City will save, instead of taking in big chunks, up to \$10,000 in the next four or five years. Rebecca Huss said that makes everyone feel happier in terms of you are more certain about the numbers between Jones and Carter and the TORC number, that everyone can agree on more closely on that, which makes everyone happier. Mr. Roznovsky said the developments that are starting out now in design they will know what they can really expect for next year. Rebecca Huss said it is hard to tell what the future holds, so they tend to be more conservative. Mr. Roznovsky said they wanted to keep a reserve of 15% in the Jasper Wells, so they use up 85% of those permits each year and then then rest is the Catahoula Well and then add in a little contingency on that. Rebecca Huss asked why they hold the reserve. Mr. Roznovsky said from a budgeting standpoint, not to physically reserve the 15%, but just when they are looking at how much Catahoula Permit that they need to keep

that reserve if the Catahoula Well goes down and they have to use more Jasper, so they are not trying to use every drop.

- H. Financial Report – Mr. Yates presented the report to City Council. Mr. Yates advised the General Fund has \$564,691, which is down about \$460,000 because of the hold up on the State Department of Emergency Management Fees. Mr. Yates said they had a conference call with them last week and he expects to receive Pay Estimates 2, 3, 4 and 5 hopefully before the end of September. Rebecca Huss asked if they could cover Pay Estimate No. 6 without going over City Council’s limitation. Mr. Roznovsky said Pay Estimate No. 6 is about \$50,000 and they have received Pay Estimate No. 7, which is about \$100,000. Rebecca Huss said the answer would then be no, so does that need to go back on the Agenda for City Council to increase the limit. Mr. Yates said yes, it will because the City can’t borrow the funds because it is too close to the end of the fiscal year. Rebecca Huss asked if Mr. Yates has engaged out political influence to help with this matter because it seems to her that the State has been dragging their feet and going through bureaucratic whatever. Mr. Yates said they had a representative from Representative Metcalf’s office and Representative Metcalf contacted the Department himself. Rebecca Huss said this has been extremely unfair of the State to drag this out as long as they have, with just switching people around. Mayor Countryman said the whole process is unbearable. Rebecca Huss asked if that would be on the first agenda of the month. Mr. Yates said yes, unless they receive payment.

Mr. Yates said the Utility Fund has \$773,922.42, which is exceptional. Mr. Yates said the total for all funds is \$5,377,242.77. Mr. Yates said the General Fund revenue over expenditures was \$22,927, which would be concerning except that they had received a pretty high sales tax rebate check for the past month in the amount of \$228,000 and the City normally brings in \$190,000 in revenue, so he expects revenue of about \$400,000 and expenses around \$225,000 for the month, so expects it to gain \$125,000 next month. Mr. Yates said in Water and Sewer there is \$198,409 revenue over expenditures for that fund for this year.

John Champagne asked when they get a bump in sales tax revenue, does the City run down the line to make sure there is not an error. Mr. Yates said what it was this time was the grocery stores pay quarterly, so this was about a \$70,000 increase. John Champagne said they won’t have to send it to Austin. Mr. Yates said no. Rebecca Huss said they are below

our expectations in terms of sales tax, by almost \$50,000 under budget year to date. Mr. Yates said that does not include this month's deposit. Mr. Yates said they are running about \$30,000 per month over last year's deposits.

Rebecca Huss said another thought on covering the bridge, she thought if the City brought the item to MEDC, the MEDC could offer a bridge loan, because she thought they had more operating funds than the general account does right now. Mr. Yates said he would ask the MEDC Board if they want to do a loan. Rebecca Huss said she did not know how hard it would be for the MEDC to loan the funds, so they would need to check with the City Attorney.

Rebecca Huss said she did have a question on why they were significantly over budget by \$24,000 on the overtime budget and the full year budget is only \$20,000. Mr. Yates said that was primarily due to the Police Department since they have been understaffed all year and have had to pay more in their overtime. Rebecca Huss said in general on the insurance, both in the general account and the utility fund, the liability insurance is higher than budgeted. Mr. Yates said he is not sure why that happened because they had the precise estimate. Rebecca Huss said it is showing \$19,000 and the budget was \$14,000, which is what she was remembering since the City Secretary did such a bang up job on the insurance, and she was wondering where the extra money came in. Rebecca Huss said they can just email her the information. The City Secretary advised she would check into the information and then send it out via email.

- I. Sales Tax Report – Ryan Fortner - Mr. Yates advised about two months ago the City hired a Sales Tax consultant, Ryan Fortner, and this is his first report. Mr. Fortner reviewed his report with City Council. Mr. Fortner said they made a large request for information from the State of Texas then then physically notate everything that is in the district. Mr. Fortner said they have put together a listing of all businesses. Mr. Fortner said they have created a master list that they can compare with the State Comptroller's reports that they produce. Mr. Fortner said they have found discrepancies that have been sent off and the master list that has been submitted to the State Comptroller for review and comment, following their noncompliant report. Mr. Fortner said once they receive the comments back from the State, that list will be included in the report for next month's meeting. Mr. Fortner said that physical report allows them to know what is physically on the ground versus what the State believes is here and also allows them to monitor when those businesses hit and pay the

City, so in real time they will be monitoring their payments and payment schedule. Mr. Fortner said the State Comptroller has 44 working business days from the time they submit their report, and their report was submitted during the first week in August, so they should have the information from the State Comptroller by the next month's meeting. Mr. Fortner said he will present the information to City Council once they have a qualified opinion from the State Comptroller. Mr. Fortner said when they performed their audit in the City they found 234 entities, which does include vacancies and retail and industrial centers. Mr. Fortner said they found 156 companies that provide goods or services that qualify for the City's local tax, with 48 entities that were non-taxable, such as medical, EMS, police, etc. Mr. Fortner said there were 16 vacancies and two miscellaneous, which were owner refusals. Mr. Fortner said when they came into the City they have documentation of who they are, a letter from the City on City letterhead providing they have been hired to make requests for public information, however, if there is a business owner that is wary of what they are doing, they have the right to refuse them, which they then turn their information over to the State. Mr. Fortner said they only had two refusals. Mr. Fortner said using the reports that the State Comptroller provides they show 4,206 active taxpayer accounts that are coded to the City of Montgomery, with most of them being e-commerce or they are coded as active but is an individual that is starting a business from the home and they have not yet gone into business, therefore they have not made a sale. Mr. Fortner said they like to prove a 13-month running tally, showing August to August with all of the months in between and the total number of filers with sales tax to the City. Mr. Fortner said in August 2018 there were 1,680 sales tax filers, and he has notated which ones are quarterly filers, such as the grocery stores. Mr. Fortner said the City was averaging 1,533 entities paying sales tax to the City, and August 2018 was a 6.5% increase in taxpayers over 2017. Mr. Fortner said February 2018 reflects the largest single month number of sales tax filers in the City of Montgomery's history. Mr. Fortner said they actually saw in Montgomery County, February and May were some of the highest months that any of their clients have seen with sales taxpayers, and said that was not an anomaly that is just people moving out and doing a lot more e-commerce than they did before and they are seeing more Montgomery County wide construction coming in and new businesses opening. Mr. Fortner said for the calendar year 2018 sales tax totaled \$1,613,341.94 for the tax year the sales tax receipts totaled \$1,172,018.86. Mr. Fortner said they take the confidential information reports provided to them by the State Comptroller and list out 12 months the top 25 filers. Mr. Fortner said the top 25 taxpayers have remitted \$1,192,415.42 over the last 12 months. Mr. Fortner said each month they like to break down the months sales tax

filers. Mr. Fortner said the top 25 tax filers paid \$211,373.65, which makes up 69% of the City's revenue stream for the month. Mr. Fortner said they also like to look at how many clients have remitted over \$1,000 and they use that to judge the health and spending patterns within a particular client. Mr. Fortner said in August the City had 44 businesses that filed local taxes in excess of \$1,000, and those 44 were 78% of the City's revenue stream. Mr. Fortner said they will continue to monitor this information and will put into a data base that they use internally and if they start to see this figure decrease then that will throw a red flag. Mr. Fortner said traditionally they have not seen that figure decrease. Mr. Fortner said they also provide monthly a previous to current month top 25 tax payers listing so the City can compare non-quarterly months to quarterly months and see the movements of individual businesses. Mr. Fortner said they find that particular clients have particular entities within the boundary that they may pay attention to or want to see. Mr. Fortner said for the past 12 months 89% of the revenue stream coming into the City via sales tax are from providers charging the local tax that are within the City boundaries and out of the City boundaries. Mr. Fortner said they noticed that 59 businesses filed sales tax from locations physically within the City and 1,621 filers with out of district goods and services, which is not uncommon with e-commerce filers.

Mr. Fortner said City Council had asked if he would confirm the sales tax receipts to confirm that there are no outliers, and they are doing that by monthly going through the reports that the State Comptroller provides and said e-commerce is difficult, but what they are looking for is high dollar outliers with physical addresses or NICS codes that are outside the City. Mr. Fortner said the State has provided those records going back to January 2017 and he said they have not found anything yet, but they are still reviewing the records because each report they receive has about 64,000 lines. Mr. Fortner said they are monitoring those reports because they do not want to see an instance where the City has, as in the past, received erroneous revenues and have to pay them back on a payment plan. Mr. Fortner said they will continue to look at the number of e-commerce filers.

Mr. Fortner said they went back to January 1991, which is the farthest that they could go back, and said the City was issued \$24,349,907 in sales tax receipts, and the August allocation reflects \$304,341.94. Mr. Yates said the August 2018 allocation is the largest single allocation received by the City of Montgomery to date. Mr. Fortner said they have extracted the top 25 filers for a year, and for July and August and then they have gone and looked at the business category by NAICS, and they have taken the top 25 categories in

the City and have listed them with the dollar amounts received. Mr. Fortner said they will use this information because each month these are the top 25 and they will be looking at them to make sure that the filing amounts for them are correct and that they are not shifting around. Mr. Fortner said this information is very useful in making sure the top performing industries in the City are doing just that.

Mr. Fortner reviewed the comparison report for August 2017-August 2018 so that they could see the increases and decreases stating that the August 2018 amount was 59.67% increase from August 2017. Mr. Fortner said for the fiscal year to date is \$2,171,123.82 and it shows budgeted \$1,810,800 with one month remaining for fiscal year 2018. Mr. Fortner said the report also shows 2017, 2016, 2015 and 2014 fiscal year allocations so that City Council can see the growth trend from 2014 through the present. Mr. Fortner said 2014 is significant because it is the farthest back they can go back and recover by State statute, which is why they use that as a benchmark. Mr. Fortner said the City is showing a mean allocation of \$201,633.38. Mr. Fortner said they can any type of graphical model that the City Council would like to see and said they have provided several examples for review. Mr. Fortner said for the tax year of 2018 the City is in their eighth month, and six of those eight months reflects the highest received for that month going all the way back to 1995. Mr. Fortner said they are reviewing the \$236,764 received in 2016 and that request is still pending at the State, with the \$151,000 that the City received in June. Mr. Fortner said they have provided a month to month variance and a year to year variance.

John Champagne said in January 2016 there is an appreciable bump and asked if that included the erroneous taxes that were paid. Mr. Fortner said that is what they are looking into now. Mr. Fortner said they are only allowed to go back to January 1, 2017, to request the information, so he is going to get with Mr. Yates to review the information he was sent. Mayor Countryman asked about the festivals they have in the City, and asked how we would know if they are collecting sales tax from the vendors that are at the festivals. Mr. Fortner said food vendors that offer a take and go product they are not subject to sales tax, now if a vendor sets up a table or offers silverware it is now subject to local tax. Mr. Fortner said individual vendors are required to file local taxes based on where they were at a particular time, but the problem they have seen historically is many times at festivals and farmers markets you have vendors that travel and they might have a master permit set up at their residence and they travel the circuit. Mr. Fortner said what they do is ask their clients to let them know in advance when there is going to be a festival and they will either

come and do a canvass or if there is a listing of the permits, they will research the information. Mayor Countryman stated that she did not know if they would be able to delineate if they came to the City and what portion monthly was from Montgomery. Mr. Fortner said if the festival was held in December and there was a number of vendors there, when they receive the February report from the State they can isolate dollars and cents that were spend by each individual vendor that are paying local taxes and if that is something that City Council would like to see they can report on that.

Mr. Fortner said lastly they showed yearly allocations and yearly variances, with tax year 2017 showing a three percent increase over 2016, and because they are not out of tax year 2018 they do not have a percentage that will not close out until February.

Rebecca Huss asked about festivals and vendors and asked if the City's interest in collecting the tax going to put a burden on those types of vendors to the point that they do not want to come to Montgomery to participate because we are so interested in their paperwork. Mr. Fortner said it would depend on the vendor and he would recommend is making a packet of information that advises the vendor that they are inside the City limits and stating the tax rate and letting them know that they are to remit their sales tax to the State. Mr. Fortner said they should provide the information so that way the vendor is given a piece of paper with contact information so the vendor will have the information. Rebecca Huss said if they are traveling vendors it is really hard to file in several different places. Mr. Fortner said they try to make the festivals as turnkey as possible and provide them the documentation and it has been very successful.

Mayor Countryman said the report was good information and thanked Mr. Fortner.

Rebecca Huss moved to accept the Departmental Reports as presented. John Champagne seconded the motion, the motion carried unanimously. (4-0)

6. Report Regarding Community Resilience Collaborative by Walter Peacock, Texas A&M University.

Mr. Walter Peacock stated he has been to a lot of City Council Meetings all over the Texas coast and this City Council's attention to detail and they type of questions that are asked really impress him.

Mr. Peacock said he is the program coordinator for Texas Sea Grants and he is also the Planning Specialist for Community Resilience Collaborative (CRC). Mr. Peacock explained the CRC is the brain child between Texas Sea Grants and Texas Target Communities. Mr. Peacock said this is a research based program that reaches out to communities along the Texas coast and tries to see how they can make the communities more sustainable; and how can they make sure the communities will grow in the future, not only for the people, but for the environment. Mr. Peacock said they need to make sure to plan for ways to keep the citizens safe, which is the point of the CRC. Mr. Peacock said their goal is to help the communities adopt high quality plans which need local refined visions of sustainable development to promote an increase resilience of our community's natural and technological hazards and be good stewards of the environment, to monitor and enhance and restore habitats, ecosystems and the services they provide. Mr. Peacock said they work with the University and do all the research, but the local communities have a wealth of information that they don't have and they know better about their own home. Mr. Peacock said they want to get that information and help them understand what these trends are so they can have better plans in the future. Mr. Peacock said they want to increase the capacity of the communities and strong so they can grow in the future.

Mr. Peacock said he will be creating a State of the Community Report for the City of Montgomery, looking through the maps and data to make a report to the community telling them what their strengths, weaknesses and opportunities are. Rebecca Huss asked if Mr. Peacock would be doing this as an outsider without their input, because she would be curious to see how he viewed the City rather than how we view ourselves. Mr. Peacock said yes, he would be doing this as an outsider while he will be in the community taking information from the area. Mr. Peacock said there will be problems with his report, which is why he wants the community to hear the information and make comments, so that they can collect better data.

Mr. Peacock said after the State of the Community Report they will start with the Comprehensive Plan. Mr. Peacock said he will not be doing 100 percent of the work, he works with seven different communities in his area and this will be a partnership between him, Texas A&M and the City. Mr. Peacock said he figured the ratio would be about 50/50. Mr. Peacock said that he will facilitate the community meetings, but it is the City's responsibility to help him reach people in the community that need to be here. Mr. Peacock said people will not trust someone that is not from the community so he will need the City's help. Mr. Peacock said he will be seeing what the community's visions and goals are, where do they see Montgomery in the next 20, 30 or 40 years, what are their wants and needs. Mr. Peacock said they will be having surveys that he will create to allow people to participate even if they can't stand up in front of people and speak to them. Mr. Peacock said he

will take all this information and this will be the vision for the future. Mr. Peacock said the comprehensive plan will be a guide that the City can use and turn to when making decisions. Mr. Peacock said the comprehensive plan is not a permanent book, it is something that needs to change as the community changes, not every year, but maybe every 10 years. Mr. Peacock said they would have to examine their goals and vision to make sure it is what the people in the City still want.

Mr. Peacock said a lot of grants that are out there will not look at an application if the City does not have a comprehensive plan, but when they see a comprehensive plan they know the City is serious about where they want to go and how they want to use the money. Mr. Peacock said the City is more likely to get more grants in the future with a comprehensive plan. John Champagne asked if this would be for State and Federal Grants. Mr. Peacock said it would be for any grants. Mr. Peacock said this is going to be a long project. Mr. Peacock said there will be other specialists that can assist with this project. Rebecca Huss asked what other kinds of specialists Mr. Peacock has used before. Mr. Peacock said that right now for the City of Hitchcock they have 11 different departments working there from forestry departments, engineering, planning, architecture and landscape architecture that are offering support for different portions of the community plan. Mayor Countryman said she thought it was encouraging that the first time that Mr. Peacock came to visit the City, they took a ride through the City and he said he had no idea and that the City had a lot to work with, which she thought was awesome and there was a lot of good stuff to capitalize on. Rebecca Huss said she thought it was a good idea to use the people, ideas and enthusiasm here and having a blueprint to have us all work together in a comprehensive and cohesive manner rather than just slapping a piece of concrete here or a bench here, but have something that you are investing in the future. Mr. Peacock said that is a key rule for the program, they want to include everyone in the process. Mr. Yates said they have applied for the Texas Target Communities and if they could use that intention and transfer it over to the CRC to get them started. Rebecca Huss said she felt this was an amazing opportunity that they have been given and we should not delay a single moment. Mr. Yates said he agreed.

7. Consideration and possible action regarding The Shoppes at Montgomery, Section 2 Final Plat.

Mr. Roznovsky said this plat went to the Planning and Zoning Commission last night and they recommended approval and this follows the details of the 380 Agreement regarding the easements, access and the land swap has been completed. Rebecca Huss asked if this was everything that was in the agreement. Mr. Roznovsky said yes, with the exception of the things that can't happen yet, because they can't release some of the easements until the next line is built, but everything that can

be done at this time is on there. Rebecca Huss said everything that the City wants is included. Mr. Roznovsky said that was correct.

Dave McCorquodale moved to approve the final plat for The Shoppes at Montgomery, Section 2. Rebecca Huss seconded the motion, the motion carried unanimously. (4-0)

8. Consideration and possible action regarding scheduling a Public Hearing for rezoning of the property located at 1005 Old Plantersville Road, Montgomery from R-1 Single-family to ID-Industrial to be held on September 25, 2018 at 6 p.m. as requested by Theresa Fisher.

Mr. Yates said this is the property on Old Plantersville Road that is half Industrial and half Residential, and the applicant has had one public hearing with the Planning and Zoning Commission in May, but in the discussion following that item the applicant asked to table their request until they would consider whether or not they wanted to change their application to Commercial. Mr. Yates said they have decided to continue their application for Industrial use, which fell into the new opinion of the City Attorney to have two public hearings by the Planning and Zoning Commission. Mr. Yates said the Planning and Zoning Commission voted last night to schedule a Public Hearing for September 24, 2018 and the new notices will be sent out to the surrounding property owners and a new advertisement will be published in the paper.

Rebecca Huss confirmed that new notices would be required for the zoning, because that was one of her objections with the item being tabled, she felt that because things were not going well for the landowner she pulled it for consideration and would wait until she had less objections and fewer people around. Mr. Yates said the owner came back last Wednesday and requested for it to be back on the Agenda. Rebecca Huss asked if there should be two hearings by City Councils. Mr. Yates said City Council only needs one Public Hearing and one notice will cover both the Planning and Zoning Commission and City Council Public Hearings. Rebecca Huss said she wanted to make sure that the neighbors knew about the Public Hearings so they can voice their objections. John Champagne said in his mind it is totally irrelevant, if in fact City Council is convinced one way or the other, whether she pulls the item from the Agenda or puts it back, their decision should be made based on what exposure has been made and what they have gleaned from the citizens. John Champagne said the neighbors have spoken to a great degree. Dave McCorquodale said she is just hoping that we forget. John Champagne said that is not going to happen.

Dave McCorquodale said he had a small point on the both uses in the letter that keeps getting referenced, he did not believe that it is referring to Industrial versus Residential, it refers to the two specific uses of the classic cars the small home building business that Mr. Fisher wanted to put on the property, so it was not a question, in his mind, about the uses it was answering the use of classic cars and home building and in the past Mayor's letter said those two uses sound fine, not necessarily the specific use of Industrial. Dave McCorquodale said that his point of being accurate that nobody ever said that Industrial was okay, what somebody said was that these two specific businesses were. Mr. Yates said there has not been a full discussion by the Planning and Zoning Commission. Rebecca Huss said with the experience of the past year with Mr. Potter living next to a trash dump with trash blowing across his property and the unregulated and non-receipt of a Special Use Permit for that Industrial Use property, and a dog kennel in a residential neighborhood and the unsanitary disposal of waste, they need to be more careful about the impact that they are having on residential neighbors and their property.

Dave McCorquodale moved to schedule a Public Hearing for the rezoning of 1005 Old Plantersville Road, Montgomery from R-1 Single-family to ID-Industrial to be held on September 25, 2018 at 6 p.m. at City Hall as requested by Theresa Fisher. John Champagne seconded the motion, the motion carried unanimously. (4-0)

Mr. Yates said that last night the Planning and Zoning Commission for clarification, since all of the property includes some residential and some industrial property, they added the words "for the eastern portion of the property" to their motion, and asked if the City Council could amend their motion to include that statement so that it would be clear to the public.

Dave McCorquodale amended his motion to include "for the eastern portion of the property" to be included in the motion. John Champagne seconded the amended motion, the amended motion carried unanimously. (4-0)

The original motion as amended carried unanimously. (4-0)

9. Discussion regarding Montgomery Ridge (Signorelli) Development.

Mr. Roznovsky advised that in 2015 Signorelli approached the City about providing services to their tract of land that is south of the KOA Campgrounds and is approximately 126 acres of land. Mr. Roznovsky said that plan is to develop approximately 488 single family homes. Rebecca Huss asked

which side of the project is inside the City's ETJ. Mr. Roznovsky said about half of the property is in the City's ETJ. Mr. Roznovsky said in 2015 the developer was requesting wholesale water and sewer service to be provided outside the City, since they will not be annexed into the City. Mr. Roznovsky said at that time the development fizzled out and now it has come back again with the same request, with the intent of bringing the entire development into the City of Conroe's ETJ.

Rebecca Huss said when the Finance Director for the City of Conroe was here running for the Montgomery Board, he said that it would be a cold day in Hell before Conroe would ever give the City anything out of their ETJ, but now the letter is saying that they can annex into Conroe's ETJ anytime they want, and asked how that works. Mr. Foerster said this is MUD 150 and the Texas Water Code provides that when a MUD District is partially in one City's ETJ and partially in another City's ETJ, the MUD Board may by that statute opt into being entirely in one City's ETJ or the other, and they have from some correspondence with the City of Conroe's City Attorney, advised us and committed to the City of Conroe that they will at some point as a MUD vote to have the entire District in the City of Conroe's ETJ and we will lose that portion of the ETJ. Rebecca Huss asked why they would choose Conroe, she was just curious. Mr. Foerster said he really did not know, other than they might have gotten some considerations from the City of Conroe, which he is not privy to. Mr. Foerster said several years ago the City of Montgomery was not in a position to make a commitment to provide water and sewer to the entire District, so without that not happening they turned to Conroe to see what they could do for them because Montgomery could not provide the services. Mr. Foerster said recently the staff, Mr. Roznovsky, Mr. Yates and himself discussed this and said maybe it was time to find out whether or not City Council would be interested in finding capacity assuming there is any benefit for the City. Mr. Foerster said that Mr. Roznovsky has done a good job of running out the pros and cons. Mr. Foerster said he spoke to the Attorney for the MUD, David Oliver, with a law firm in Houston, and explored the possibility if this City Council is interested in revisiting the idea of us providing water and sewer as a wholesale customer, knowing full well that we would never be in the City of Montgomery. Mr. Foerster said Mr. Oliver said they were open to anything and to let him know how City Council feels about the matter, which is what lead up to the presentation you are hearing tonight.

Mr. Roznovsky said that it was his understanding that this same developer has done a lot of development with the City of Conroe so they have that process down and they are new to the City of Montgomery. Mr. Roznovsky said that he does not see a 25% increase in water sewer revenue is really a selling point, it would be if they would extend the water and sewer utilities down FM 2854 inside the City ETJ to provide service to their tract, opening up the potential for development on FM

2854 inside the City of Montgomery. Rebecca Huss asked what code they would be purchasing water, institutional, top tier, what rate. Mr. Roznovsky said that his assumption was that it would be based on use, so he would think that it would be residential use, because the way the code is written. Rebecca Huss said if they are buying wholesale water. Mr. Roznovsky said it would be for 488 homes, which is 125,000 gallons a day. Rebecca Huss said per month it would be 2 million gallons, so that could be \$9 per 1,000 or \$7 per 1,000 gallons, per month for water, and \$12 per 1,000 for sewer. Mr. Roznovsky said that would be worked out in the developer agreement. Rebecca Huss said they should work it out now before they go there, because there is a big difference between 1.25 times \$5.75 or \$7.25. Mr. Yates said City Council could say what classification they would want. Rebecca Huss said if they are going to put them in the wholesale rate is really institutional and changes things completely. John Champagne said it would accelerate their capital expenditure to meet that kind of demand, and in his mind it is a loser. Rebecca Huss said at \$5.25 it certainly is a loser. John Champagne said even at \$7 it is, because they are reaching out to a nonentity. John Champagne made a motion to discontinue discussions with the developer Signorelli, Montgomery Ridge Development. Mr. Yates said that this is a discussion item only. Mr. Foerster said he would report back to Mr. Oliver the opinion of the City Council. Mr. Roznovsky said they are going to scoff at the idea of putting in City utilities, because Stanley Lake shares a boundary with them and they wanted them to upgrade some other things and they said no. Rebecca Huss thanked staff for putting the time into the project. John Champagne said Mr. Roznovsky did a good job.

10. Buffalo Springs Bridge Report by the City Engineer.

Mr. Roznovsky advised that progress of the Buffalo Springs Bridge project, advising that since the last City Council Meeting, the project manager, the Vice President of the company left a letter on the owner's desk on Thursday afternoon saying he was out and has disappeared. Mr. Roznovsky said they met with the contractor, Glenn Fuqua today and his other Vice President to go over the revised plan, and they said there is no way they can meet the schedule and he does not know what that means. Mr. Roznovsky said they advised Mr. Fuqua that he needed to have a revised schedule that they can look at. Mr. Roznovsky said they are rearranging crews and bringing in additional workers next week and taking people off of other jobs to try and catch up. Mayor Countryman asked if the City was a priority to them. Mr. Roznovsky said we are and they understand the damages and once they get the revised schedule back they need to see what that looks like, and if it is not reasonable, then see what their other options are. Rebecca Huss said liquidated damages. Mr. Roznovsky said that liquidated damages are being charged, which they discussed today, and the

contractor is trying to make an argument. Mr. Roznovsky said if the City decides to go a different route he does have a performance bond, so his bonding company was notified back when the new contract time ended, so at the end of July his bonding company was sent a notification letter that he was behind schedule. Mr. Roznovsky said they started that process, so they have to default on the contract. Mr. Roznovsky said if the contractor can get this done in a relatively reasonable amount of time, the time of getting the default and getting the settlement, hiring a different contractor to do the work. Mayor Countryman asked how they found this contractor. Mr. Roznovsky said it was through public bid process, there were four contractors, with Fugua being the low bidder, their qualifications were fine, they have done this type of work before, their references were checked and no one had issues. Mr. Roznovsky said he wants to say it is a perfect storm, and the owner says that this has never happened to him before he never had these issues. Mr. Roznovsky said their bid was \$1.1 million and the next low bidder was \$1.3 or \$1.4 million and the next was \$3.1. Mayor Countryman asked if it was the same caliber and not a lot of difference in the qualifications. Mr. Roznovsky said Mr. Fuqua has owned his company for 43 years and he has done these type of projects. Mr. Roznovsky said when they came in \$200,000 - \$300,000 low, they asked him if he was sure because if they are not going to honor the contract or they are going to give the City problems the City will consider other alternatives, and they said no this was their prices and they knew what it would take to do the job. Mr. Roznovsky said they have run into a bunch of issues, with weather, supplies but for the past week they have only had four people on the site and they are moving so slow because they don't have people. Mayor Countryman said she was over there on Friday at 4:05 p.m. at the bridge and nobody was there, so when are their working hours. Mr. Roznovsky said they are required eight hours a day between 7am to 7pm to count as a working day. Mr. Roznovsky said that has been their argument because the contractor wanted a bunch of additional days, which they did not feel was justified because of that situation and he showed up Saturday and they were just showing up for work at 10:30 am and then they were gone at 3 pm. Mr. Roznovsky said it was hard to make an argument for additional days when you don't see the additional effort to make it work. Mayor Countryman said those additional rain days would be their time off, so when there is dry weather they need to be working. Mayor Countryman said if this is going to be going on into December it is ridiculous. Mr. Roznovsky said the project should be complete well before the contract is over, and here we are two months after contract time.

EXECUTIVE SESSION:

The City Council reserves the right to discuss any of the items listed specifically under this heading or for any items listed above in executive closed session as permitted by law including if they meet the qualifications in Sections 551.071(consultation with attorney), 551.072 (deliberation regarding real

property), 551.073 (deliberation regarding gifts), 551.074 (personnel matters), 551.076 (deliberation regarding security devices), and 551.087 (deliberation regarding economic development negotiations) of Chapter 551 of the Government Code of the State of Texas. (There are no items at this time.)

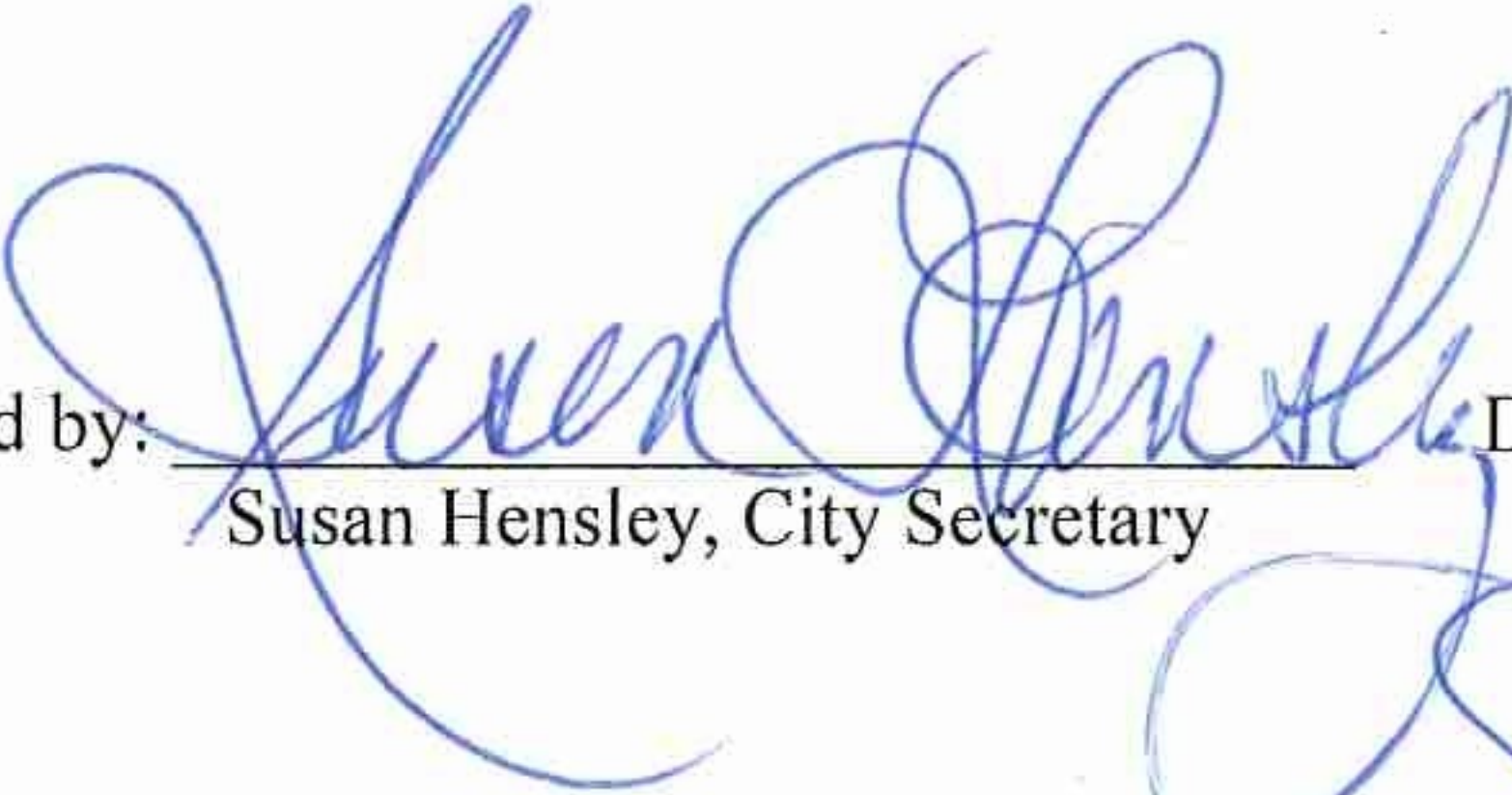
COUNCIL INQUIRY:

Pursuant to Texas Government Code Sect. 551.042 the Mayor and Council Members may inquire about a subject not specifically listed on this Agenda. Responses are limited to recitation of existing policy or a statement of specific factual information given in response to the inquiry. Any deliberation or decision shall be limited to a proposal to place on the agenda of a future meeting.

ADJOURNMENT

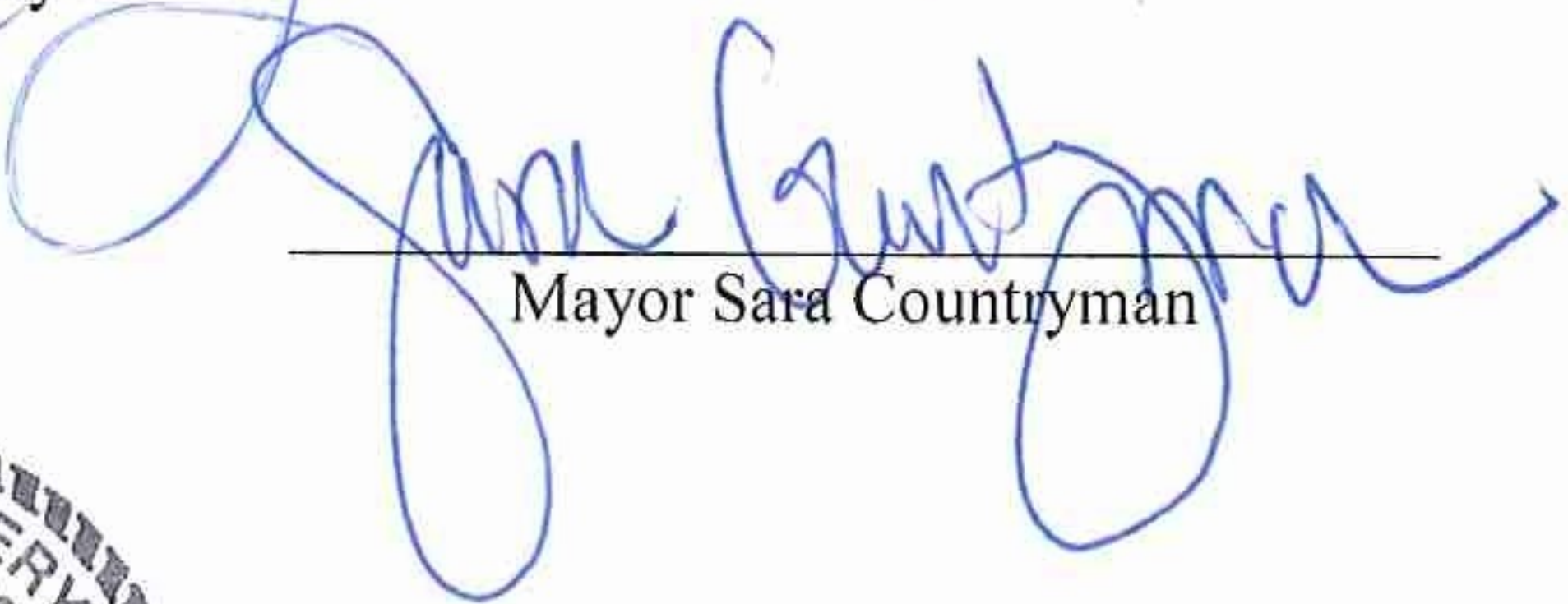
John Champagne moved to adjourn the meeting at 8:05 p.m. Dave McCorquodale seconded the motion, the motion carried unanimously. (4-0)

Submitted by:


Susan Hensley, City Secretary

Date Approved:

09/11/18


Mayor Sara Countryman

